

RESOLUTION NO. 3045-13

**A RESOLUTION OF THE WINDSOR WATER DISTRICT
BOARD APPROVING UPDATED WASTEWATER CAPACITY FEES FOR FUTURE
DEVELOPMENT WITHIN THE TOWN OF WINDSOR AND SUPERSEDING THE
EXISTING FEES ESTABLISHED BY RESOLUTION NO. 960-00**

WHEREAS, the General Plan (“General Plan”) of the Town of Windsor (“Town”) was adopted March 13, 1996 and amended on July 17, 1996 by Resolution 538-96 on April 12, 1997 by Resolution 622-97, on January 6, 1998 by Resolution 679A-98, on September 15, 1999 by Resolution 842-99 and on March 15, 2000 by Resolution No. 889-00, on February 19, 2003 by Resolution 1346-03, on March 19, 2003 by Resolution 1358-03, on July 20, 2005 by Resolution 1787-05, and on March 4, 2009 by Resolution 2437-09; and

WHEREAS, the General Plan applies to a Planning Area which includes the Town and land outside the Town in unincorporated Sonoma County which must also be considered to properly plan for the Town’s future; and

WHEREAS, the Town Planning Area encompasses approximately 13,200 acres, 4,130 of which are within the Town and 9,070 of which are outside the Town in unincorporated Sonoma County; and

WHEREAS, the General Plan area is shown on the Land Use Map contained in the General Plan; and

WHEREAS, the General Plan summarizes the policy for financing the cost of improvements required to accommodate new development in the Town as follows: “the community services and facilities policies make clear that capital facility needs generated by new development should be financed by new development,” and that accordingly, future development in the Town should pay its fair share of needed infrastructure (see General Plan pp. 3-4, 3-5, 4-31, 4-35, 8-4); and

WHEREAS, a Program Environmental Impact Report (“EIR”) was prepared for the General Plan pursuant to the California Environmental Quality Act (“CEQA”) and certified by the Town Council on March 13, 1996 by Resolution No. 505-96; and

WHEREAS, the Town of Windsor (“Town”) provides water reclamation services within the Town boundaries and the Windsor Water District service area; and

WHEREAS, the water reclamation services the Town provides consists of sewer collection, wastewater treatment, recycled water distribution and water reclamation storage and disposal; and

WHEREAS, the Town’s wastewater, water reclamation and recycled water system (“Water Reclamation System”) is operated as a self-supporting utility enterprise; and

WHEREAS, Article 6 of Chapter 6, Title XVI of the Code of the Town of Windsor (“Municipal Code”) establishes a wastewater capacity fee applicable to development with the Town; and

WHEREAS, the wastewater capacity fees currently applied to new users were last updated by Resolution No. 960-00 adopted by Council on October 4, 2000; and

WHEREAS, the Town has engaged The Reed Group, Inc. to conduct a study to assist the Town with updating its wastewater capacity fees; and

WHEREAS, The Reed Group has prepared a report dated November 2013, entitled “Wastewater Capacity Fee Study” (“Report”), a true copy of which is attached hereto as Exhibit A; and

WHEREAS, the Report presents wastewater capacity fees for future development and describes the fee methodology, underlying data and assumptions, and benefits of the changes to the methodology; and

WHEREAS, the Code of the Town of Windsor (“Municipal Code”) provides for the use and the administrative guidelines for wastewater capacity fees through adoption of a Resolution; and

WHEREAS, in accordance with the California Government Code, at least 14 days prior to the public hearing at which this Resolution was adopted, notice of the time and place of the hearing was mailed to eligible interested parties who filed written requests with the Town for mailed notice of meetings on new or increased fees; and

WHEREAS, 10 days advance notice of the public hearing at which this Resolution was adopted was given by publication; and

FINDINGS

WHEREAS, the Windsor Water District Board (“Water District Board”) finds as follows:

A. The purpose of the wastewater capacity fee set forth in this Resolution is to recover the fair share buy-in costs, as well as the capacity expansion capital costs and wastewater debt service necessary to accommodate new users without burdening existing users.

B. After considering the Report, the testimony received at this noticed public hearing, the agenda statements, the General Plan, the General Plan EIR, the Report and all correspondence received (together, “Record”), the Water District Board approves and adopts the Report and incorporates such Report, and further finds that further development in the Town will generate the need for water reclamation facilities consistent with the General Plan.

C. In adopting the wastewater capacity fee set forth in this Resolution, the Water District Board is exercising its powers under Article XI, Section 7 of the California Constitution.

D. The Record establishes:

1. That there is a reasonable relationship between the use of the wastewater capacity fee set forth in this Resolution to the needs created by, and the benefits accruing to new development in the Town, both residential and non-residential.

2. That there is a reasonable relationship between the amount of the wastewater capacity fee set forth in this Resolution and the capital recovery charges that existing users, through service charges, tax contributions and other up-front charges, have developed a valuable public capital facility and that the charge to new development is designed to recognize the current value of providing the capacity necessary to serve additional users.

3. That the method of allocation of the wastewater capacity fee set forth in this Resolution to a particular development is determined by taking the current value of assets divided by the current number of customers and is commonly referred to as the “buy-in” methodology is a common and generally well-accepted methodology for calculating capacity fees and charges.

4. That the method of allocation of the fee set forth in this Resolution to a particular development bears a fair relationship, and is roughly proportional, to each development’s burden on, and benefits from, the water reclamation facilities funded by such fee.

E. The Report is a detailed analysis of how public services will be affected by development in the Town and the water reclamation facilities that accommodate that development.

ADOPTION OF FEE

NOW, THEREFORE, the Board of the Windsor Water District does resolve as follows:

1. Definitions.

a. “Development” means the construction, alteration or addition of any building or structure within the Town of Windsor, within the Windsor Water District, and within any areas served by the Windsor Water District outside the jurisdictional limits of the Town.

b. “Bed and breakfast inn” means a residential structure as defined under the Town’s Zoning Ordinance and is classified as residential or non-residential development depending on the number of guest rooms.

c. “BOD” is biochemical oxygen demand and is a type of pollutant loading to the water reclamation system measured in milligrams per liter (mg/l).

d. “Caretaker housing” is a residential development that is accessory to a non-residential development as defined under the Town’s Zoning Ordinance.

e. “ESD” means equivalent single family dwelling and is a way to express sewer flow amongst different types of customers by converting all classes of customers to a common unit of expression; 1.0 ESD is equivalent to 200 gallons per day of flow, 150 mg/l of BOD and 100 mg/l of TSS.

f. “Fee” means capacity fee as established by Town of Windsor Municipal Code and is the same term as capacity charge under Government Code §66013.

g. “Granny unit” means a detached or attached dwelling unit constructed on a site zoned for a single family residence in conjunction with a primary residence, as defined in California Government Code §65852.2 and is a secondary dwelling unit in the Town’s Zoning Ordinance.

h. “Guest house” means a temporary living quarter within an existing primary residence without kitchen facilities as defined in the Town’s Zoning Ordinance.

i. “Live/work facilities” is defined as a mixed-use (residential and non-residential) development as defined in the Town’s Zoning Ordinance.

j. ”Mixed strength uses” means a development with two or more types of development and one or more type of development that is medium or high strength user (such as office/restaurant, or gas station/market/car wash, residential/laundromat, etc.).

k. “Multi-family” or “Multiple family” means a residential development with two or more dwelling units including but not limited to duplexes, apartments, condominiums, townhouses, and mobile home parks as defined in the Town’s Zoning Ordinance.

l. “Single Family” means a single family dwelling unit development as defined in the Town’s Zoning Ordinance.

m. “Strength factor” means a factor assigned to a type of non-residential development that establishes low strength, medium strength and high strength wastewater classification and considers flow and pollutant loading of that wastewater; strength factors for special, very high strength development is established by special formula and calculations.

n. “TSS” is total suspended solids and is a type of pollutant loading to the water reclamation system measured in milligrams per liter (mg/l)

2. Wastewater Capacity Fee Imposed.

In accordance with California Government Code §66013, a Wastewater Capacity Fee (“Fee”) shall be imposed and paid at the times, and in the amounts and otherwise apply and be administered as prescribed in this Resolution on all new, altered or expanded wastewater service connections to the water reclamation system based on the number of ESDs discharged by the development.

3. Time for Imposing Fee for Residential Subdivisions.

In accordance with California Government Code §65961, the Fee for subdivisions for single family and multiple family subdivision development for which tentative or parcel maps are required pursuant to the Subdivision Map Act (California Government Code § 66410 *et seq.*) shall be imposed at the time of setting the conditions that apply to the tentative or parcel map for such residential subdivision development, as applicable. Payment of the Fee shall be deemed to be a condition of all such tentative or parcel maps. Notwithstanding this Section 3, the time for payment of the Fee for all development, including single family and multiple family subdivisions, shall be as specified in Section 4, below.

4. Time for Fee Payment.

a. A Fee shall be charged and paid for each single family and multiple family residential development, for each non-residential development, including commercial, industrial and office development, and for each mixed development upon issuance of the building permit for such development.

b. A Fee shall be charged and paid for each change in use of Town water reclamation system capacity that results in an increase to the number of ESDs currently on file for the development being redeveloped or altered.

c. A Fee shall not be reimbursed for each change in use of Town water reclamation system capacity that results in a decrease to the number of ESDs currently on file for the development being developed or altered. The higher number of ESDs on file and paid for shall remain with the development for purposes of future Fee charges resulting from redevelopment or alteration.

d. Should Town records not have on file the existing number of ESDs for the development being redeveloped or altered, the number of ESDs shall be determined by the Director of Public Works/Town Engineer, in his or her sole judgment and discretion, based on best available information including but not limited to previous utility billings, building plans, and planning applications.

5. Amount of Fee.

**Town of Windsor
Proposed Wastewater Capacity Fee Schedule**

Wastewater Capacity Fees			
Single Family Residential			
Single family dwelling	\$	10,560	per DU
Secondary (granny) unit	\$	5,280	per DU
Multi-Family Residential (1)			
Per dwelling unit	\$	8,237	per DU
Non-Residential (2)			
Low (standard) strength	\$	10,560	per ESD
Medium strength	\$	12,555	per ESD
High strength	\$	18,615	per ESD
Non-standard development projects		(3)	

Notes:

- (1) Includes duplex, triplex, apartment, condominium, and mobile home units.
- (2) Includes commercial, industrial, institutional, and mixed-use development.
One equivalent single-family dwelling (ESD) is equal to 200 gpd of estimated wastewater flow.
- (3) For new connections with non-standard waste characteristics, the wastewater capacity fee can be determined as follows:

$$WWCF = \$10,560 \times \text{Flow} / 200 \times [0.83 + (0.12 \times \text{BOD} / 150) + (0.05 \times \text{TSS} / 100)]$$

Where

WWCF = Calculated wastewater capacity fee

Flow = Wastewater flow in gallons per day

BOD = Biochemical oxygen demand of discharge in mg/l

TSS = Total suspended solids of discharge in mg/l

6. Fee Calculations for Non-Residential Development.

a. Fees shall be calculated based on ESD methodology as described in the Report. Sewer flows shall be calculated based on building square footage or drainage fixture units, if final number of fixture units is available at the time of the fee calculation. An Engineer's Report for the sewer flow estimate may be provided subject to the review and approval of the Public Works Director/Town Engineer. Fee calculations shall be final at the time of payment and no modifications and reimbursements shall be made thereafter.

b. For non-residential, non-standard development projects, the Director of Public Works/Town Engineer shall calculate fees based on the ESD formula specified in the Report. If the ESD formula is not used, a different fee calculation may be established by separate agreement and Town Council approval.

7. Use of Fee Revenue.

In accordance with California Government Code § 66013(c), the revenues raised by payment of the Fee shall be placed in a separate, interest bearing account to permit accounting for such revenues and the interest which they generate. Such revenues and interest shall be used:

- a. To pay for acquisition, design, engineering, construction, reconstruction, property acquisition, consultant studies, and debt retirement of Town owned water reclamation facilities.
- b. To reimburse the District for facilities constructed by the District with funds from other sources including funds from other public entities, unless such funds were obtained from grants or gifts intended by the grantor to be used for the Facilities.
- c. To pay for and/or reimburse costs of program development and ongoing administration of the Fee program, including, but not limited to, the cost of studies, legal costs, and other costs of updating the Fee.

8. Subsequent Analysis and Revision of the Fee.

The Fee set herein is adopted and implemented by the Water District Board in reliance on the Record identified in this Resolution. The Town may continue to conduct further study and analysis to determine whether the Fee should be revised. When additional information is available, the Water District Board may review the Fee to determine that the Fee amounts are reasonably related to the impact of development within the Town. In addition to the inflation adjustments pursuant to Section 8, below, the Town Council may revise the Fee to incorporate the findings and conclusions of further studies and any standards in the General Plan, as from time to time amended by the Town.

9. Fee Adjustments.

The purpose of this Section 9 is to provide for annual adjustments of the Fee for inflation, beginning July 1, 2014 and each July thereafter using the *Engineering News Record's* 20-Cities construction cost index (20-cities CCI).

10. CEQA.

The Town Council finds that adoption of this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15060(c)(2) of Title 14, Chapter 3 of the California Code of Regulations ("CEQA Guidelines") because there is no possibility that the activity may have a direct or reasonably foreseeable indirect physical change in the environment.

11. Effective Date.

This Resolution shall become effective 60 days from adoption or on the same date Ordinance No. 2013-282 becomes effective, whichever is later.

12. Severability.

Each component of the Fee and all portions of this Resolution are severable. Should any individual component of the Fee or any portion of this Resolution be adjudged to be invalid and unenforceable by a body of competent jurisdiction, then the remaining Fee components and/or Resolution portions shall be and continue in full force and effect, except as to those Fee components and/or Resolution portions that have been adjudged invalid. The Windsor Water District Board hereby declares that it would have adopted this Resolution and each section, subsection, clause, sentence, phrase, and other portion thereof, irrespective of the fact that one or more section, subsection clause, sentence, phrase, or other portion may be held invalid or unconstitutional.

PASSED, APPROVED AND ADOPTED this 4th day of December 2013, by the following vote:

AYES: MEMBERS ALLEN, FUDGE, GOBLE, SALMON AND CHAIR OKREPKE
NOES: NONE
ABSTAIN: NONE
ABSENT: NONE



BRUCE OKREPKE, CHAIR

ATTEST:



**IRENE CAMACHO-WERBY,
ACTING DISTRICT SECRETARY**

